

Amy Clemmons
Assistant Attorney General
1116 W Riverside Avenue
Spokane, WA 99201
(509) 456-3123

THE HONORABLE EDWARD F. SHEA

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

DAVID TROUPE,

Plaintiff,

v.

KENNITH R. BRODHEAD;
LINDA W. BELANGER;
KEVIN WALKER,

Defendants.

NO. 13-5028-EFS

JOINT AGREED
PROTECTIVE ORDER

The parties, by and through their respective counsel, stipulate to the entry of this Protective Order Concerning Confidential and/or Privileged Information, as follows:

A. This Protective Order shall apply to all documents, materials, and information, including without limitation: documents produced; answers to interrogatories; responses to requests for admission containing information designated as confidential; deposition testimony; and other information disclosed pursuant to the disclosure or discovery duties created

1 by the Rules of Civil Procedure and pursuant to the terms of this Protective
2 Order.

3 B. As used in this Protective Order, "document" is defined as
4 provided in F.R.C.P. 34. Any draft or non-identical copy containing
5 information that is protected by this order shall also be subject to the terms
6 of this protective order.

7 C. "CONFIDENTIAL" and/or "Protected" information covered
8 under the terms of this Protective Order shall include:

9 1) Plaintiff's Medical file. The parties agree that the information
10 in this file will not be used for any purpose outside of the issues related to
11 this litigation. In the event any portion of the file needs to be filed with the
12 court prior to trial, it will be filed under seal, or in such a manner, as it will
13 not be made available to the public. In the event this matter proceeds to
14 trial, the parties agree to address the manner in which this file will be used
15 at trial with the Judge prior to trial, to give Plaintiff an opportunity to
16 request protection of the material from public disclosure;

17 2) All information on any staff member employed by DOC shall
18 be deemed confidential and shall not be disclosed, used or distributed by
19 Plaintiff without a prior stipulation by counsel or an order by the court.
20 Plaintiff has misused information on staff in the past and attempted to
21 obtain personal information on staff to be used against staff and attempted
22 to manipulate staff with the threat of disclosure of personal information, as

1 found in prior court actions, resulting in other court's granting injunctive
2 relief preventing Plaintiff from obtaining any personal information on
3 DOC staff. The prior injunctive orders, limiting Mr. Troupe's access to
4 information on staff remain in effect and are attached hereto and
5 incorporated herein as Ex. 1. Due to the concerns for staff safety, the need
6 to avoid offender manipulation and threats, and the interests of institutional
7 security, the parties agree that Plaintiff will not obtain any personal
8 information on staff, or any information that could possibly be used as a
9 threat or to manipulate staff within any correctional facility, in the course
10 of this litigation. Plaintiff has agreed to withdraw any discovery requests
11 for information on staff, with the exception of the information set out
12 below in section D that the parties agreed could be produced in this
13 litigation.

14 3) Plaintiff further agrees to withdraw and not make any
15 discovery requests for any information on security practices that is
16 designated by the Department of Corrections (DOC) as information not
17 available to offenders for safety and security reasons. Plaintiff will seek
18 prior permission from Defense counsel and/or obtain an order from the
19 court in order to obtain any information on DOC security measures,
20 policies, or practices, which are not available to offenders for security
21 reasons.
22

1 D. The parties have agreed that solely for the purposes of this
2 litigation, Plaintiff may have access to the following information. This
3 information shall be treated as confidential and privileged, and not subject
4 to any disclosure outside of the parties to this action and to the Court as
5 necessary in the course of this litigation:

6 1) a response to an Interrogatory on whether CUS Belanger
7 possesses any degrees in the area of mental health, not to include any
8 personal identification information or information that could lead to the
9 identification of any personal information;

10 2) a response to an Interrogatory regarding whether Officer
11 Brodhead has any findings of abuse or discipline, contained in his
12 personnel file, relating to his conduct directed toward inmates;

13 3) access to existing records on e-mails by staff that reference or
14 relate to Mr. Troupe for the time period between June of 2010 and July
15 2011. These e-mails will be subject to redactions, as necessary, to avoid
16 disclosure of any confidential and/or protected information on DOC staff,
17 third parties or other offenders.

18 E. CONFIDENTIAL information shall not be disclosed or used
19 for any purpose except as needed for the preparation and trial of this case.
20 Plaintiff shall not share any records obtained in the course of this litigation
21 with anyone outside of Defense counsel and/or the Court without first
22 obtaining permission in writing from Defense counsel and/or obtaining an

1 order from the Court. Defendants shall only use Plaintiff's medical
2 information as necessary for the preparation and trial of this case, which
3 may include sharing that information with experts or other witnesses
4 involved in the preparation and trial of this matter.

5 F. The parties agree to redact any personal identification
6 information on any DOC staff from any documents to be filed with the
7 Court before trial or used at trial as an exhibit in this matter.

8 G. The Parties agree that documents designated as
9 CONFIDENTIAL that may be filed with the Court at trial will be subject
10 to further order of the court as necessary at the time of trial. No documents
11 designated as "CONFIDENTIAL" will be filed with the Court except for
12 in camera review until such time as the Court has had an opportunity to
13 hear and decide any separate motions relating to the potential disclosure of
14 the document at trial.

15 H. Whenever a deposition involves the disclosure of
16 CONFIDENTIAL information, the deposition or portions thereof shall be
17 designated as CONFIDENTIAL and shall be subject to the provisions of
18 this Protective Order. Such designation shall be made on the record during
19 the deposition whenever possible, but a party may designate portions of
20 depositions as CONFIDENTIAL after transcription, by providing written
21 notice of the designation within thirty (30) days after receipt of the
22 deposition transcript.

1 I. Within thirty (30) days of the conclusion of this case, unless
 2 other arrangements are agreed upon by the parties, the Plaintiff shall
 3 relinquish or return all documents designated as CONFIDENTIAL by this
 4 order, and any copies or reproductions thereof, to Defendants' counsel, or a
 5 ~~designated DOC employee charged with collecting the same.~~ Amy C. Clemmons.

6 J. This Order may not be modified without the Court's signature
 7 or approval. Notwithstanding, nothing in this Order abridges the right of
 8 any person to seek its modification by the Court in the future. This
 9 Protective Order may be modified by the Court at any time following
 10 notice to all parties and an opportunity for them to be heard.

11 DONE AND ORDERED this 6th day of ~~October~~, 2013. November, 2013.

12 s/Edward F. Shea

13 THE HONORABLE EDWARD F. SHEA

14 STIPULATED TO AND APPROVED as to form this 4 day of

15 October, 2013.

16 ROBERT W. FERGUSON
 17 Attorney General

18 s/Amy C. Clemmons

19 AMY C. CLEMMONS, WSBA# 22997
 20 OID # 91106

21 Attorneys for Defendants Kenneth R.
 22 Brodhead; Linda W. Belanger and
 Kevin Walker
 Assistant Attorney General
 1116 W. Riverside Avenue

David Troupe
 DAVID TROUPE,
 DOC # 765714

1 Spokane, WA 99201-1194
2 Telephone: 509-458-3545
3 Fax: 509-458-3548
4 E-mail: AmyC2@atg.wa.gov
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22